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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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FIVE MOORE DR., PO BOX 13398				
RESEARCH TRIANGLE PARK, NC 27709-3398				
EXAMINER				
DAVIS, ZINNA NORTHINGTON				
ART UNIT		PAPER NUMBER		
1625				
NOTIFICATION DATE		DELIVERY MODE		
01/16/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USCIPRTP@GSK.COM
ROSALIE.M.CHAMBERLAIN@GSK.COM
JULIE.D.MCFALLS@GSK.COM

Office Action Summary

Application No.

10/532,373

Applicant(s)

BEST ET AL.

Examiner

Zinna Northington Davis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5, 7, 12, 14-17, 21 and 23 is/are pending in the application.

4a) Of the above claim(s) 21 is/are withdrawn from consideration.

- 5) ☐ Claim(s) _____ is/are allowed.

- 6) ☒ Claim(s) 1, 2, 16, 17 and 23 is/are rejected.

- 7) ☒ Claim(s) 3, 5, 7, 12, 14 and 15 is/are objected to.

- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

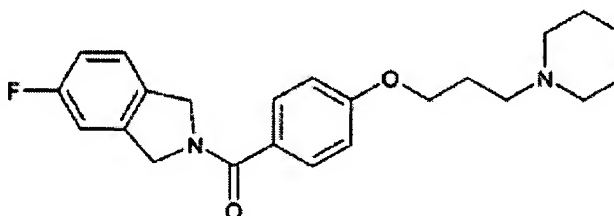
Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) see cont. 6) ☐ Other: _____

3) April 21, 2005 and September 4, 2007

DETAILED ACTION

1. Claims 1-3, 5, 7, 12, 14-17, 21 and 23 are pending. Claims 4, 8-11, 13, 18-20, and 22 have been canceled.
2. Based upon the response filed October 31, 2007, Applicants have elected Group I, claims 1-3, 5-7, 12, 14-17, and 23, without traverse. The preferred species of claim



16 is represented as follows:

3. Claim 21 is withdrawn from consideration.
4. Based upon the examination and search, the species election is withdrawn. The claims are examined as a whole.
5. Applicants are reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently filed petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(h).
6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

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7. Claim 23 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 23 improperly refers to claim 1. It is suggested that the compound of formula I should be depicted or the claim should depend upon claim 1.

Clarification is appreciated.

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

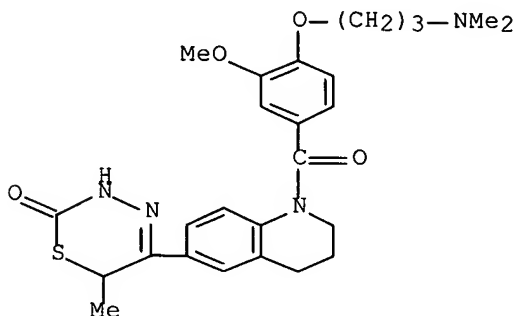
(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1, 2, 16, and 17 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Jonas et al (Reference B, cited by the Examiner).

The instantly claimed compound is disclosed. At page 13, lines 62 and 63, and page 15, lines 56-57, see the named compound, 5-[1-[3-methoxy-4-3-dimethylamino)propoxy]-benzoyl)-1,2,3,4-tetrahydroquinoline-6-yl]-6-methyl-3,6-dihydro-1,3,4-thiadiazin-2-one.

The claims are fully met when $a=1$; $b=2$; $q=3$; R^1 is heterocycle; R^2 is hydrogen; R^4 is $-(CH_2)_q-N R^{11}R^{12}$; and R^{11} and R^{12} are alkyl.

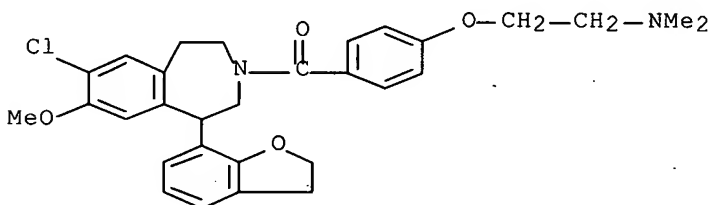
The compound is depicted below:



10. Claim 1, 2, 16, 17, and 23 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by NOVO NORDISK A/S (Reference 10, cited by Applicants).

The instantly claimed compound is disclosed. At page 15, lines 22-23, see the named compound, [7-Chloro-1-(2,3-dihydrobenzofuran-7-yl)-8-methoxy-1,2,4,5-tetrahydrobenzo[d]azepin-3-yl]-[4-(2-dimethylaminoethoxy)-phenyl]-methanone, (compound No. 39). At page 22, lines 15-28, see the reaction process.

Compound No. 39 is depicted bellow:



The claims are fully met when a and b=2; q=2; R¹ is Cl and -OMe; R² is heterocycle; R⁴ is -(CH₂)_q-N R¹¹R¹²; and R¹¹ and R¹² are alkyl.

11. Claims 3, 5, 7, 12, 14, and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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12. Reference A is cited to show the state of the art.
13. The Information Disclosure Statements filed April 21, 2005 and September 4, 2007 have been considered.
14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zinna Northington Davis whose telephone number is 571-272-0682.
15. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300 for regular communications.
16. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**/Zinna Northington Davis/
Zinna Northington Davis
Primary Examiner
Art Unit 1625**

Znd
12.31. 2007